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Follow-up to the Fourth World Conference on Women and to the special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century": review of gender mainstreaming in entities of the United Nations system

Thematic issues before the Commission on the Status of Women

Report of the Secretary-General

Summary

The present report is based on a description of the activities undertaken in the United Nations in recent years, on the issues of women's human rights and violence against women which are inextricably linked. The report treats women's human rights and violence against women in two separate parts and focuses primarily on one form of violence which has reached worldwide proportions and attracted the interest of the international community in recent years, namely, trafficking in women and girls. The report concludes with a series of recommendations for consideration by the Commission on the Status of Women.

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I. Introduction

1. In accordance with the multi-year programme of work for 2002-2006 adopted by the Economic and Social Council in its resolution 2001/4, the Commission on the Status of Women will review, as one of its thematic issues, "Women's human rights and elimination of all forms of violence against women and girls as defined in the Beijing Platform for Action and the outcome document of the twenty-third special session of the General Assembly".

2. The present report is based on a description of the activities undertaken in the United Nations in recent years, particularly since the adoption of the outcome document of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century",[1] on the issues of women's human rights and violence against women which are inextricably linked. All forms of violence against women, including trafficking, are violations of most or all basic human rights. The report will treat women's human rights and violence against women in two separate parts, following the structure of the Beijing Platform for Action, adopted in 1995 at the Fourth World Conference on Women,[2] which deals with these issues in two separate "areas of concern". Moreover, owing to the broad nature of the issue of violence, the present report will focus primarily on one form of violence which has reached worldwide proportions and attracted the interest of the international community in recent years, namely trafficking in women and girls.

3. In order to contribute to an analysis of the issue of trafficking, the Division for the Advancement of Women of the Department of Economic and Social Affairs, in collaboration with the Office on Drugs and Crime of the Secretariat (formerly the Office for Drug Control and Crime Prevention of the Secretariat), convened an expert group meeting on trafficking in women and girls in Glen Cove, New York, United States of America, from 18 to 22 November 2002. The conclusions and recommendations of the expert group meeting, which was attended by experts from various regions and by representatives from other United Nations entities, are provided in paragraphs 35 to 59 of the present report.

II. Women's human rights

4. Attention to the human rights of women has increased since the adoption in 1993 of the Vienna Declaration and Programme of Action,[3] in which it was stated that the human rights of women and the girl child are an inalienable integral and indivisible part of universal human rights. The Beijing Platform for Action stressed the need to promote and protect the full enjoyment of all human rights and fundamental freedoms of all women throughout their life cycle.

5. The Beijing Platform for Action provides a framework for the translation of human rights law into concrete actions aimed at achieving women's empowerment and gender equality. In particular, critical area of concern (strategic objective) I, "Human rights of women", takes a comprehensive approach to women's human rights. The interlinkages between human rights and violence against women are addressed in paragraph 224 of the Platform for Action, which calls for urgent action to combat and eliminate all forms of violence against women in private and public life, whether perpetrated or tolerated by the State or private persons. The issue of

human rights of women is also addressed in other areas of concern of the Platform, including strategic objective D, "Violence against women".

6. The importance of promoting and protecting women's human rights was reiterated in the five-year review of the Beijing Platform for Action. The outcome document of the twenty-third special session of the General Assembly (resolution S-23/3)[1] called for the creation of an enabling environment and the design and implementation of policies that promote and protect the enjoyment of all human rights — civil, cultural, economic, political and social rights, including the right to development — and fundamental freedoms, as part of the efforts to achieve gender equality, development and peace (para. 101 (o)). It also called for the creation of an environment that does not tolerate violations of the rights of women and girls (para. 68 (a)), and the adoption of measures through, inter alia, supporting and strengthening existing mechanisms entrusted with prosecuting perpetrators of violations of the human rights of women, to eliminate impunity (para. 99 (b)).

7. Since the adoption of the outcome document, considerable progress has been made in promoting and protecting women's human rights, particularly through the adoption of treaties at regional and international levels.[4] One of the most recent developments at the regional level is the work undertaken towards the adoption of a protocol to the African Charter on Human and People's Rights on the rights of women in Africa.

8. At the international level, the entry into force, in December 2000, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women constitutes an important development (as at 10 December 2002, 48 countries had acceded to the Optional Protocol). Moreover, the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflicts entered into force in January and February 2002, respectively (as at 10 December 2002, 43 countries had acceded to both Optional Protocols).

9. The statute of the Special Court for Sierra Leone created in 2002 establishes jurisdiction over serious violations of article 3, common to the Geneva Conventions, including "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault". The Rome Statute of the International Criminal Court,[5] which came into force in the same year, establishes jurisdiction to try crimes of sexual violence, such as rape, sexual slavery, enforced prostitution and forced pregnancy, as crimes against humanity when committed as part of a widespread or systematic attack directed at any civilian population. The statute also makes provision for the application of gender-sensitive justice, including victim and witness protection measures, as well as for achieving fair representation of female and male judges.

10. A clear sign of the increased international attention to women's human rights in the area of peace and security is the adoption in 2000 of Security Council resolution 1325 (2000), which underlined the vital role played by women in conflict solution and the importance of undertaking measures that ensure the protection of and respect for human rights of women and girls when negotiating and implementing peace agreements. A study, undertaken in follow-up to that resolution, constituted the premise for a report of the Secretary-General to the Security Council dated 16 October 2002 on women, peace and security,[6] which included issues of

accountability for violations of human rights during armed conflict. A gender and human rights perspective is increasingly being integrated into United Nations peacekeeping missions. For example, the integrated mission task force established in Afghanistan in October 2001 included experts on gender equality and human rights as a way to ensure adequate attention to those issues in the United Nations Assistance Mission in Afghanistan.

11. In recent years, the Commission on Human Rights and the Commission on the Status of Women have worked extensively in order to promote and protect women's human rights. In this context, and based on their respective resolutions 1997/43 of 11 April 1997 and 39/5 of 31 March 1995, both Commissions have adopted joint work plans — prepared annually by the Division for the Advancement of Women and the Office of the United Nations High Commissioner for Human Rights — with the aim of mainstreaming women's human rights.

12. Between 2000 and 2002, the Commission on Human Rights also adopted various resolutions addressing specific human rights, including women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing (resolution 2002/49) and on integrating the human rights of women throughout the United Nations system (resolution 2002/50). In the latter regard, the Commission on Human Rights, inter alia, urged the use of gender-inclusive language in the formulation, interpretation and application of human rights instruments, as well as in reports, resolutions and/or decisions of the Commission on Human Rights, the Subcommission and the various human rights mechanisms. It also established various extra-conventional mechanisms, including a Special Rapporteur on adequate housing, a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, and a Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, created under its resolutions 2000/9, 2001/57 and 2002/31, respectively. The Special Rapporteurs were invited to apply a gender perspective in their work.

III. Violence against women and girls

A. General

13. As mentioned above, "Violence against women and girls" is one of the critical areas of concern (i.e. strategic objective D) of the Beijing Platform for Action, which specifies various forms of violence against women, including battering, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, violence related to exploitation, rape, sexual abuse, sexual harassment, trafficking in women and girls and forced prostitution. It also addresses particular forms of violence against women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy, forced sterilization and forced abortion, coercive or forced use of contraceptives, female infanticide and prenatal sex selection (paras. 114-115).

14. The outcome document of the twenty-third special session of the General Assembly reiterated the need to eliminate all forms of violence against women and girls, including through the launching of an international "zero tolerance" campaign against women (para. 87). It also called for increasing cooperation, policy responses

and effective implementation of national legislation and other protective and preventive measures aimed at the elimination of violence against women, including all forms of commercial sexual exploitation, as well as economic exploitation, including trafficking in women and children, infanticide, crimes committed in the name of honour, crimes committed in the name of passion, racially motivated crimes, abduction and sale of children, dowry-related violence and deaths, acid attacks and harmful traditional or customary practices such as female genital mutilation, early and forced marriages (para. 96).

15. Since the adoption of the outcome document, important steps have been taken at the national and international levels to address the issue of violence against women and girls. At the national level, several States parties to the Convention on the Elimination of All Forms of Discrimination against Women have made significant changes to their legislation in order to eliminate violence against women and girls, including domestic violence. For instance, at the twenty-seventh and exceptional sessions of the Committee on the Elimination of Discrimination against Women, held respectively in July and August 2002, Armenia, Barbados, Guatemala, Hungary,[7] Suriname, Saint Kitts and Nevis and Ukraine[8] reported on legislative initiatives undertaken to combat violence against women.

16. The intergovernmental bodies of the United Nations, including the Commission on the Status of Women, the Commission on Human Rights and the General Assembly, constantly address the various forms of violence to which women and girls are subjected in their agreed conclusions and resolutions.

17. At its forty-fifth session in 2001, the Commission on the Status of Women adopted agreed conclusions on women, the girl child and HIV/AIDS[9] in which it, inter alia, recommended the strengthening of concrete measures to eliminate all forms of violence against women and girls. It also adopted agreed conclusions on gender and all forms of discrimination, in particular racism, racial discrimination, xenophobia and related intolerance, stating that violence against women and girls was a major obstacle to the achievement of the objectives of gender equality, development and peace, and that violence against women both violated and impaired or nullified the enjoyment by women of their human rights and fundamental freedoms.

18. At its fifty-seventh and fifty-eighth sessions in 2001 and 2002, the Commission on Human Rights adopted resolutions on the elimination of violence against women in general (resolutions 2001/49 and 2002/52) and resolutions which identified specific categories of women victims of violence (resolution 2002/58, on violence against women migrant workers; resolution 2002/59 on the protection of migrants and their families; and resolution 2001/52 and 2002/62, on the human rights of migrants).

19. Particular manifestations of violence against women, including contemporary forms of slavery, systematic rape, sexual slavery and slavery-like practices, and traditional practices affecting the health of women and girls, such as female genital mutilation, have been the focus of the Subcommission on the Promotion and Protection of Human Rights as evidenced by its resolutions 2001/14, 2001/20 and 2001/13, respectively.

20. The Special Rapporteur on violence against women, its causes and consequences, as well as the Special Rapporteur on the sale of children, child

prostitution and child pornography continued to address the issue of violence. The former submitted a report to the fifty-eighth session of the Commission on Human Rights on cultural practices in the family that do violence to women,[10] while the latter submitted a report highlighting some of the ways in which the private sector was assuming a proactive and reactive role in responding to violations of children's rights related to prostitution.[11]

21. At its fifty-fifth session, the General Assembly adopted, on 4 December 2000, various resolutions which address the issue of violence against women and girls, including resolution 55/66 on the elimination of crimes against women committed in the name of honour, resolution 55/68 on the elimination of all forms of violence against women, including crimes identified in the outcome document of the twenty-third special session of the General Assembly. At its fifty-seventh session, the General Assembly adopted resolutions 57/179 and 57/181 of 18 December 2002 of a similar nature.

B. Trafficking in women and girls

22. Trafficking in women and girls is a serious form of violence against women and girls as well as a violation of their human rights. The issue is addressed in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (art. 6), as well as in the 1993 Declaration on the Elimination of Violence against Women (art. 2 (b)). At the regional level, this issue is covered in the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (art. 2).

1. Efforts of the United Nations regarding trafficking in women and girls

23. Although trafficking in women and girls has been a long-standing concern of the international community, particular emphasis was given to the issue in the past decade. In 1994, at its thirty-ninth session, the Commission on the Status of Women adopted resolution 39/6, in which it invited Governments to combat trafficking in women and children through nationally and internationally coordinated measures, at the same time establishing or strengthening institutions for the protection of the victims of trafficking in women and children, and to ensure the necessary assistance for victims, including legal support services that are linguistically and culturally accessible, towards their full protection, treatment and rehabilitation.

24. The issue of trafficking of women and girls is addressed in the Beijing Platform for Action, under strategic objective D.3, "Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking". The Platform calls upon Governments to consider the ratification and enforcement of international conventions on trafficking in persons and on slavery and to take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women and girls. Such measures were reaffirmed in the outcome document of the twenty-third special session of the General Assembly on the five-year review of the Beijing Platform for Action. In the outcome document, Governments are called upon to consider preventing, within the legal framework and in accordance with national policies, victims of trafficking, in particular women and girls, from being prosecuted

for their illegal entry or residence, taking into account they are victims of exploitation (para. 70 (c)).

25. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in September 2001, in its final document[12] affirmed the urgent need to prevent, combat and eliminate all forms of trafficking in persons, in particular women and children, and recognize that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance (para. 30). States were urged to devise, enforce and strengthen effective measures at all levels to prevent, combat and eliminate all forms of trafficking in women and children, in particular girls, through comprehensive anti-trafficking strategies, including legislative measures, prevention campaigns and information exchange.

26. On 25 May 2000, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted by the General Assembly in its resolution 54/263 and, as mentioned above, entered into force in January 2002. The Protocol obliges States parties to take the necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detention, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child sex tourism.

27. In November 2000, the General Assembly, by its resolution 55/25 of 15 November 2000, adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. This Protocol aims to prevent and combat trafficking in persons, paying particular attention to women and children; protect and assist the victims of trafficking, with full respect for their human rights; and promote international cooperation in order to meet these objectives (as at 10 December 2002, 21 countries had acceded to this Protocol).

28. In 2000, the General Assembly adopted resolution 55/67 of 4 December 2000, in which it urged Governments to devise, enforce and strengthen effective measures to combat and eliminate all forms of trafficking in women and girls through a comprehensive anti-trafficking strategy consisting of, inter alia, legislative measures, prevention campaigns, information exchange, assistance and protection for, and reintegration of, the victims and prosecution of all the offenders involved, including intermediaries. It also encouraged the sharing of knowledge and best practices. More recently, at its fifty-seventh session, the General Assembly adopted resolution 57/176 of 18 December 2002 on trafficking in women and girls.

29. At its fifty-seventh and fifty-eighth sessions in 2001 and 2002, the Commission on Human Rights adopted resolutions 2001/48 and 2002/51, on traffic in women and girls. The Commission also addressed some aspects of trafficking in its resolution 2002/59 on the protection of migrants and their families, as well as other resolutions. At its fifty-third session in 2001, the Subcommission on the Promotion and Protection of Human Rights included a sub-item on smuggling and trafficking in persons and protection of their human rights in the agenda. In its resolution 2001/14 of 15 August 2001, the Subcommission called upon States to place action against trafficking within a human rights framework, so that victims are fully protected and not treated as illegal immigrants. The Subcommission also addressed the issue of trafficking in persons through the activities of the Working

Group on Contemporary Forms of Slavery, which devoted its twenty-sixth session, in June 2001, to that issue.

30. At its tenth session in 2002, the Commission on Crime Prevention and Criminal Justice discussed the issue of trafficking in persons and expressed support for the global programmes against trafficking in human beings, corruption and transnational organized crime. Trafficking in persons will be the special theme of the Commission at its twelfth session in 2003.

31. A number of Special Rapporteurs of the Commission on Human Rights also continued to address the issue of trafficking in persons, especially women, children and migrants. The Special Rapporteur on violence against women, its causes and consequences, in her report to the fifty-eighth session of the Commission,[13] suggested that the issue of trafficking should be a priority on the international human rights agenda. The Special Rapporteur on the sale of children, child prostitution and child pornography, in his report to the fifty-eighth session of the Commission,[14] outlined a procedure, which is to be adopted, to investigate information received, in particular with respect to individual complaints alleging instances of the sale of children and the involvement of children in prostitution or pornography. The Special Rapporteur on the human rights of migrants, in her report to the fifty-eighth session of the Commission,[15] highlighted the need to combat the corruption that goes hand in hand with trafficking and a draft national legislation to penalize such illegal activities, which expose migrants to the worst forms of abuse.

32. The United Nations human rights treaty bodies continued to address the issue of trafficking during the consideration of reports of State parties, concluding observations or comments, general comments or recommendations and other work. For instance, in 2002, the Committee on the Elimination of Discrimination against Women recommended a series of measures to combat trafficking in women and girls in its concluding comments on the reports of Armenia, Barbados, Belgium, the Czech Republic, Denmark, Estonia, Greece, Portugal, the Russian Federation, Saint Kitts and Nevis, Suriname, Tunisia and Ukraine. At its twenty-seventh and twenty-eighth sessions in 2001, the Committee on the Rights of the Child addressed the issue of trafficking in children in its concluding observations on the reports of Cameroon, Cape Verde, Côte d'Ivoire, the Democratic Republic of the Congo, Guatemala, Paraguay and the United Republic of Tanzania. At its seventy-first and seventy-second sessions in 2001, the Human Rights Committee included the subject in its concluding observations on the reports of Croatia, the Czech Republic, the Democratic People's Republic of Korea, the Dominican Republic and Venezuela. At its twenty-sixth session in 2001, the Committee against Torture also addressed the issue of trafficking in women and girls in its concluding observations on the reports of Georgia and Greece.

33. Efforts of the United Nations system in the area of trafficking in women and girls have expanded since the adoption of the outcome document of the twenty-third special session of the General Assembly. A report of the Secretary-General was submitted to the General Assembly at its fifty-seventh session[16] summarizing the activities of the United Nations system in this area. Moreover, in May 2002, the United Nations High Commissioner for Human Rights prepared Recommended Principles and Guidelines on Human Rights and Human Trafficking,[17] which pay particular attention to women and children.

2. Recent regional efforts regarding trafficking in women and girls

34. In December 2001, the Economic Community of West African States (ECOWAS) adopted a Plan of Action against Trafficking in Human Beings, which commits member countries to take action against trafficking in persons in 2002 and 2003, setting achievable goals and objectives. Other regional efforts against trafficking are: the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, signed on 5 January 2002, and the regional Declaration against Trafficking in Human Beings adopted on 13 December 2002 by the Ministerial Council of the Organization for Security and Cooperation in Europe.

3. Expert group meeting on trafficking in women and girls

35. The following section summarizes the discussion and highlights the recommendations of the expert group meeting, held in Glen Cove, New York, from 18 to 22 November 2002.

Increase in trafficking in women and girls

36. Trafficking in human beings is the fastest growing form of transnational organized crime, involving very high earnings and very low risks. It thrives on the fact that many countries do not have adequate laws against trafficking. The laws, when enacted, often do not recognize a trafficked person as a victim. Globalization has facilitated freer movements of people, goods and services across international borders, unwittingly resulting in camouflaging clandestine operations such as human trafficking. Trafficking cannot be identified with migration, or even with illegal migration. However, poverty, inequalities, restrictions in immigration policies, including gender-based restrictions, increase the vulnerability of migrants, especially migrant women, and contribute to trafficking.

37. Trafficking in women and girls is one of the most corrosive forms of violation of human rights. It results in the gradual and total destruction of a woman's personal identity and her right to live as a free human being in a civilized society. Victims are subjected to violence, humiliation and violation of personal integrity, which in many cases leaves them with the lifelong effects of mental and physical trauma. Trafficking is a denial of the right to liberty and security of the person, the right to freedom from torture, violence, cruelty or degrading treatment, the right to a home and a family, the right to education and employment, the right to health care — everything that makes for a life with dignity. Trafficking has been rightly referred to as a modern form of slavery. Despite this, States have not yet integrated human rights concerns and strategies into their laws and policies relating to trafficking.

38. The contemporary situations of armed conflict or internal disturbances also lead to trafficking. Women and children are disproportionately targeted during such situations and constitute the majority of victims. During conflict, women and girls are vulnerable to sexual violence and exploitation, including torture, rape, forced pregnancy, sexual slavery, enforced prostitution and trafficking.[18] Women and children also constitute the majority of the world's refugees and internally displaced persons, creating further vulnerability, which can be exploited by traffickers. As pointed out in the report of the Secretary-General to the Commission on Human Rights on integration of the human rights of women and the gender perspective: traffic in women and girls, the problem of trafficking and the web of human rights

violations it embraces present some of the most difficult and pressing issues on the international human rights agenda. Complexities include different political contexts and geographical dimensions of the problem; ideological and conceptual differences of approach; the mobility and adaptability of traffickers; different situations and needs of trafficked persons; the inadequate legal framework; and insufficient research and coordination on the part of actors involved — at the national, regional and international levels.[19] As noted above, political, social and economic dislocation has led to an increase in trafficking in women and girls.

39. It is difficult to find accurate sex-disaggregated data on the magnitude of trafficking. However, available evidence suggests that women and girls constitute the majority of those trafficked. Trafficking has both supply and demand dimensions. On the supply side, factors that render persons, especially women and children, vulnerable to trafficking are: development processes marked by class, gender and ethnic concerns that marginalize women, in particular from employment and education; displacement as a result of natural and human made catastrophes; dysfunctional families; gendered cultural practices, gender discrimination and gender-based violence in families and communities.

40. On the demand side, globalization has fuelled the development of economic sectors requiring cheap labour that is usually performed by women. This situation, coupled with restrictive immigration policies, generates a market for trafficking. Other contributory factors are economic and political trade-offs between public officials and enforcement agencies that make trafficking a high-profit, low-risk venture; consumerism, greed and impoverishment of values, resulting in the exploitation of the vulnerability of human beings to trafficking.

41. Trafficking often occurs within the context of migration. Deprivation in countries of origin generates pressures to migrate to richer countries. The lack of access to reliable information and contacts, illiteracy and language barriers, which marginalized women face, makes these women particularly vulnerable to trafficking.

Issues and strategies to combat trafficking in women and girls

42. *A human rights and gender-based approach.* A gender and human rights perspective is an essential element in combating trafficking in women and girls. A counter-trafficking strategy must therefore address gender-based violence, which includes gender-based discrimination and racism; patriarchal structures which encourage and promote the demand for and the commercialization of women's and children's bodies; cultural practices and social-relation structures which violate the human dignity of women and are inherently exploitative and humiliating; the denial of equal social status to women in access to property and their attainment of economic independence and the attendant feminization of poverty, all of which foster a favourable environment for trafficking. Counter-trafficking strategies and programmes are both immediate and long-term interventions, which should provide adequate frameworks for the elimination of trafficking.

43. Every action against trafficking must be consistent with existing human rights standards and should not lead to further stigmatization or marginalization of women and girls who have been trafficked.

44. *Legal framework.* According to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish

Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, trafficking must be investigated, prosecuted and dealt with as a serious crime, committed in a framework of organized crime. However, so far the response of the criminal justice system has not been adequate. Trafficking still implies high profits for traffickers, but very low risk. Effective prosecution and punishment and the creation of legal mechanisms that enhance victims' rights are essential in the anti-trafficking strategy.

45. In the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985, it is stated that a person may be considered a victim, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. This definition implies that the protection of the rights of the trafficked person should be ensured because she/he is a victim and not only when she/he acts as a witness or when the testimony leads to the arrest and conviction of the offenders. Moreover, the Declaration stresses the need to facilitate the responsiveness of judicial and administrative processes to the needs of victims, inter alia, by taking measures to minimize inconvenience to victims, protect their privacy when necessary and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.

46. Within the framework of established principles and rules for a fair trial, a victim-friendly procedure should be established, taking into account the peculiar condition of the victim of trafficking, especially the impact of the trauma deriving from violence, loss of self-determination and self-esteem, and the bias and stereotypes connected with the condition of being an illegal alien and/or a prostitute.

47. It will also be important to ensure that national legislation guarantees that the trafficked person has access to justice, including police protection, legal representation and compensation.

48. *Victim support and empowerment.* Trafficked persons, especially women and girls, face negative consequences as a result of the lack of legislation and appropriate procedures aimed at supporting and protecting them. Victims are not identified as victims and thus do not receive appropriate support and protection. Victims may be criminalized for illegal border crossing; for crimes connected with the condition of being undocumented migrants; because of being prostitutes or for crimes connected with prostitution; for illegal labour; or for other reasons.

49. If they are deported without assistance, victims may be re-trafficked. Moreover, they are often afraid of retaliation from traffickers against them or against their families. In the event that trafficking involves illegal border crossing, owing to their illegal status in countries of destination, victims are often afraid of immediate deportation if they seek help and try to escape from traffickers. Possible alternatives to repatriation should be identified and stipulated in national legislation.

50. It is therefore important that a suitable referral mechanism be created, based on human rights protection and the need of the victim for immediate protection and help. Foreign victims should be given temporary residence and work permits and the chance of applying for asylum where safe return is not possible.

51. *Children's rights.* Children are trafficked for many different reasons: prostitution; paedophilia; forced labour or services; begging; involvement in

criminal activities, including petty theft and drug trafficking; illegal adoptions; and removal of organs. The underlying socio-economic and cultural causes and factors that increase vulnerability to trafficking include poverty; gender-based violence and discrimination; lack of education opportunities; restrictive migration regimes; and vulnerability associated with age. Under-aged girls, especially from dysfunctional families and impoverished families, are becoming victims of trafficking.

52. Despite the signature and ratification of the Convention on the Rights of the Child by most countries, adequate implementation is lacking. In most countries, there is no special protection and treatment for trafficked children. In countries of destination, children under age 12 are often placed in orphanages, while they wait organized return. Older children are often treated as illegal migrants and criminals and face prosecution, imprisonment and deportation from the countries in which they are arrested.

53. Special standards providing protection and rehabilitation for children should be established. In addition to measures provided for trafficked persons who are adults, assistance programmes for children should include education on the same terms as nationals and separate shelter and rehabilitation programmes for small children.

Recommendations

54. In order to combat trafficking in women and girls effectively, it is necessary to adopt an anti-trafficking strategy which uses a gender-based and human rights approach, as well as a criminal justice approach. On this premise, the expert group meeting made the following recommendations of both a general and more specific nature:

1. General

55. Governments should:

(a) Treat trafficking as a development concern and place it on the national, regional and international agenda;

(b) Ensure a balance between preventive interventions and those providing protection and assistance to trafficked persons;

(c) Integrate a gender and human rights perspective into all development and anti-trafficking plans in an integrated, multisectoral manner. This should encompass all relevant government ministries and departments, including national women's machineries and non-governmental organizations, which can play a key role.

2. Prevention

56. Governments at all levels, enforcement agencies, international organizations, including the United Nations system, with the assistance of non-governmental organizations and other actors of civil society, as appropriate, should:

(a) Review and reorient from a gender perspective macroeconomic, trade, and social sector policies to ensure that they do not exacerbate feminized poverty and gender-based inequalities;

(b) Adopt gender budgeting as a tool to ensure gender responsive outcomes of all policies and programmes;

(c) Expand opportunities and improve access to formal and non-formal education for women, girls, boys, and ethnic minority groups at all levels, to ensure a match between better education and available job opportunities;

(d) Establish indicators and provide sex and age-disaggregated quantitative and qualitative data on all aspects of trafficking and related movements. Establish appropriate national mechanisms for this purpose;

(e) Incorporate human rights education in education and training programmes for policy makers, institutional service providers (doctors, lawyers, social workers) and law enforcement agencies (police and judiciary), as an incentive for professional advancement;

(f) Institute training programmes for law enforcement, immigration and other front-line agencies dealing directly or indirectly with trafficking issues, in order to sensitize them and raise their awareness about issues relating to trafficking and victims; to furnish them with adequate instruments for the identification and protection of victims of trafficking; and to enhance their ability to handle trafficking issues;

(g) Build women's and children's capacity to deal with potential exploitation through: (i) pre-departure gender and rights-based orientation and training that provides information on human rights and available services, and on where and how to access such services when needed; (ii) distribution of information on safe migration through visa, passport, immigration and other offices; and (iii) public service advertisements, radio, television, print media and establishment of hotlines. Take specific measures for the protection of children, including issuance of passports or travel documents, and in respect of visa and travel regulations;

(h) Use positive cultural values and practices which promote empowerment of women and gender and sexual relations marked by mutuality, dignity and sensitivity, and which forestall trafficking;

(i) Raise public awareness and education about HIV/AIDS and myths promoting the use of young children for sexual exploitation;

(j) Develop mechanisms to monitor and prevent sexual exploitation of women and children on the Internet, and the use of the Internet as a means to traffic in persons;

(k) Conclude international, regional, subregional and bilateral agreements to ensure and facilitate data collection and exchange of information on: law enforcement cooperation; prosecution of offenders; assistance to victims, including return and reintegration; and prevention measures undertaken in the countries of origin, transit and destination. Conclude bilateral and regional agreements that provide for protection of immigrant workers, especially women;

(l) Develop information campaigns for the general public aimed at promoting awareness of the dangers of trafficking, especially in women and children, as well as small-scale, well-designed and targeted campaigns for special groups, including policy makers, police, judiciary and communities at risk;

(m) Establish mechanisms for monitoring employment agencies, travel agencies and adoption agencies, and develop mechanisms for accountability, including those that ensure safe living and working conditions compatible with

human respect and dignity. Ensure compliance with international standards regarding international adoptions.

3. Victim support and empowerment: assistance and protection based on victims' needs

57. Governments at all levels, international organizations, including the United Nations system, with the assistance of non-governmental organizations and other actors of civil society, as appropriate, should:

(a) Develop a referral system so that victims are referred to appropriate services;

(b) Develop clear guidelines and procedures for the identification and treatment of victims of trafficking based on human rights standards, with special protection for children under age 18;

(c) Establish and support safe and adequate shelters for all trafficked persons, regardless of their status, and establish clear rules on the establishment and operation of shelters in order to protect the rights of victims. The provision of such shelters should not be made contingent on the willingness of the victim to give evidence in criminal proceedings. Trafficked persons should not be held in immigration detention centres or other detention facilities;

(d) Ensure that all victims have access to health care, including physical care, culture-based psychological support and voluntary HIV/AIDS counselling and testing. Testing for HIV/AIDS should never be mandatory;

(e) Provide victims of trafficking with legal and other assistance in relation to any criminal, civil or other action against traffickers or exploiters. Victims should be provided with information in a language that they understand;

(f) Provide, in connection with assistance programmes, temporary residence permits to individuals on grounds of being a victim of trafficking, allowing victims to work, and/or apply for a residence work permit;

(g) Consider the possibility of granting asylum on grounds of trafficking;

(h) Ensure the safe and voluntary return of trafficked persons and provide them with other options, including residence permits or resettlement in a third country, where it is in the best interest of the victim;

(i) Establish cooperation between countries of origin, transit and destination to give better support to victims;

(j) Ensure that trafficked persons who return to their country of origin are provided with the assistance and support necessary to ensure their well-being, facilitate their social reintegration and prevent their re-trafficking. Measures should be taken to ensure the provision of appropriate physical and psychological health care, and housing, education and employment services for returned trafficked victims;

(k) In cases of children victims of trafficking, in situations where the safe return of the child to her or his family is not possible, or where such return would not be in the best interest of the child, establish adequate care arrangements that respect the rights and dignity of the trafficked child.

4. Legal framework: legislation and criminal justice responses

58. Governments should:

(a) Adopt and implement, as a matter of urgency and priority, laws aimed at improving the response of the criminal justice system to trafficking. National law should specifically criminalize trafficking and establish adequate penalties, according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and in accordance with principles that promote human rights and gender equality;

(b) Ensure that appropriate techniques and methods, including financial investigation, are used for investigation and prosecution, bearing in mind that trafficking is normally committed in a context of organized crime;

(c) Ensure that special and protective procedures in investigation and criminal proceedings are stipulated where the victim concerned is a minor;

(d) Ensure that frozen and confiscated assets are used in favour of victims, including for assistance and rehabilitation programmes, microcredit projects and other measures aimed at promoting women's economic self-sufficiency and independence;

(e) Take measures to establish universal jurisdiction over trafficking and related offences;

(f) Accelerate ratification and strengthen implementation of international instruments and protocols on human rights, gender equality and criminal justice, directly or indirectly relating to trafficking;

(g) As a matter of priority and urgency, eliminate discriminatory legislation and gender-based customs and practices, which perpetuate the exploitation of women and children and the use of violence against them;

(h) Ensure that all anti-trafficking programmes are based on human rights principles and protect the rights of victims;

(i) Establish dissuasive penalties and ensure effective prosecution of corrupted officials who are accomplices of traffickers, recognizing that corruption is often a vehicle for the promotion and perpetuation of trafficking and acts as an obstacle to combating trafficking.

5. National mechanisms and international cooperation

59. Governments at all levels, international organizations, including the United Nations system, with the assistance of non-governmental organizations and other actors of civil society, as appropriate, should:

(a) Establish national mechanisms to combat trafficking;

(b) Develop national plans of action against trafficking and appoint national coordinators to harmonize implementation of the plans and foster cooperation between all relevant agencies;

(c) Institute intergovernmental, inter-agency and regional cooperation to coordinate anti-trafficking programmes. International organizations should act as facilitators for such cooperation;

(d) Establish mechanisms for monitoring and evaluating the implementation of national plans of action;

(e) Establish mechanisms for implementing specific anti-trafficking regulations and codes of conduct for all international personnel of peacekeeping, peace-building, civilian police, humanitarian and diplomatic missions, and for systematic investigation of all allegations of trafficking concerning such personnel;

(f) In reviewing the initial and periodic reports of States parties, human rights treaty bodies should continue to review and monitor the issue of trafficking in human beings, especially women and children, and make concrete recommendations in their concluding comments or observations.

Notes

[1] See General Assembly resolution S-23/2, annex, and resolution S-23/3, annex.

[2] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

[3] A/CONF.157/24 (Part I), chap. III.

[4] Other relevant international and regional treaties addressing women's human rights are discussed in section III of the present report.

[5] A/CONF.183/9.

[6] S/2002/1154.

[7] For the reports of Armenia, Barbados, Guatemala and Hungary, see documents CEDAW/C/2002/EXC/CRP.3/Add.1/Rev.1, CEDAW/C/2002/EXC/CRP.3/Add.5/Rev.1, CEDAW/C/2002/EXC/CRP.3/Add.4/Rev.1 and CEDAW/C/2002/EXC/CRP.3/Add.10/Rev.1, respectively.

[8] For the reports of Suriname, Saint Kitts and Nevis and Ukraine, see document A/57/38 (Part II).

[9] *Official Records of the Economic and Social Council, 2001, Supplement No. 7* and corrigendum (E/2001/27 and Corr.1), chap. I, sect. A.IV.

[10] E/CN.4/2002/83 and Add.1-3.

[11] E/CN.4/2001/78 and Add.1-2.

[12] See A/CONF.189/12, chap. I.

[13] E/CN.4/2002/83.

[14] E/CN.4/2002/88.

[15] E/CN.4/2002/94.

[16] A/57/170.

[17] E/2002/68/Add.1.

[18] See report of the Secretary-General to the Security Council on women, peace and security (S/2002/1154), paras. 6-7.

[19] See E/CN.4/2002/80, para. 2.